81/miners

Blasters Training Program for Independent Contractors

U.S. Department of Labor
Mine Safety and Health Administration
National Mine Health and Safety Academy
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Instruction Guide Series

MSHA IG 81

Miners' Rights and Responsibilities (Excerpts From)

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INTRODUCTION

The Federal Mine Safety and Health Act of 1977 gives miners certain rights. The Act defines a "miner" as any person working in a mine. Therefore, all persons working in a mine are "miners", and may exercise the rights given them by the Act. Supervisors who may not normally perform the actual physical mining activities but who work in a mine are also "miners", and have rights as "miners."

Miners' representatives also have specific rights under the Act in addition to those rights given to individual miners. Also, applicants for mine work have the right to not be discriminated against in hiring because they previously exercised rights given them by the Act. This booklet summarizes the rights and responsibilities of miners, their representatives and applicants for mine work under the Act.

The basic laws most applicable to the independent blasting contractors are outlined in this booklet. If you have questions that are not covered here, see A Guide to Miners' Rights and Responsibilities Under the Federal Mine Safety and Health Act of 1977. This booklet can be obtained from any Mine Safety and Health Administration office or by contacting the National Mine Health and Safety Academy.

This booklet must not, however, be considered an "official" statement of the law and should not be used as a source for legal interpretations of the Act. Moreover, many of the rights and responsibilities of miners described in this booklet involve interpretations of the Act by the Mine Safety and Health Administration (MSHA). Several of the interpretations were in litigation at the time this booklet was being prepared.

If you, as a miner, representative of miners, or job applicant, have general or specific questions about your rights under the Act, please contact the nearest MSHA office.

The Act and health and safety regulations developed by MSHA give miners and their representatives many rights. Congress wanted to encourage them to take an active, responsible role in matters of mine safety and health. To find out about MSHA regulations, contact your miners' representative or the nearest MSHA office. MSHA sends copies of all new regulations to all known miners' representatives. A good safety and health program depends on the active participation and interest of everyone at the worksite. If you and your fellow miners take advantage of these rights, you will help decrease workplace deaths, injuries, and illnesses.

Requesting Federal Inspections: Section 103(g)

At any time any person may, and is encouraged to, notify MSHA of any violation of the Act or safety or health standards, or of an imminent danger. Notice may be given by telephone, letter or word of mouth to any MSHA inspector or office. If circumstances warrant, MSHA will then inspect the mine to see whether or not the violation or danger actually exists.

SAFETY AND HEALTH TRAINING

Miners' Training: Section 115

All miners must receive safety and health training under applicable programs of a training plan developed by operators and approved by MSHA.

New surface miners with no **surface** experience must receive at least 24 hours of training including, where appropriate:

- Introduction to work environment
- Rights of miners and representatives of miners under the Act
- Use of respiratory devices
- Transportation controls and communication systems
- Hazard recognition
- Escape and evacuation procedures, fire warning and fire fighting
- Explosives
- Electrical hazards
- Health
- First Aid

- Ground control, working in areas of highwalls, water hazards, pits and spoilbanks, illumination and night work

- The health and safety aspects of the job to which the new miner will be assigned

- Such other courses as may be required by MSHA based on circumstances and conditions at the mine

All miners must also receive at least eight hours of refresher training at least once each 12 months.

Any miner who is assigned to do a new job and has had no work experience doing that job within the year must receive training in the safety and health aspects and safe operating procedures of that job before doing it. This task training is applicable to supervisors who perform nonsupervisory tasks.

A portion of any training required for inexperienced miners and those assigned to a new job must include training as closely related as possible to the work the miner will be doing.

Miners must be paid at their normal rate of pay while being trained. New miners must be paid at their starting wage when taking the new miner training.

If the required training is given somewhere other than the normal place of work, miners must also be compensated for the additional costs they may incur in attending the training sessions. All required training must be provided during normal working hours.

Each time a miner completes a training program, the miner shall be given a copy of the certification as proof of having received that training program. For example, if a miner takes new miner training, upon completion of the areas or courses constituting that program the miner is entitled to a copy of the training certificate. If that miner is later assigned a new task and takes required new task training, the miner is entitled to a copy of the training certificate for that program. Miners leaving the operator's employ are entitled to another copy of all their health and safety training certificates for programs completed within the previous two years. At the present time there is considerable litigation on the issue of whether a laid-off miner can lose recall rights should he or she allow training certification to lapse. Miners should consult with their union and operator to further determine the status of this issue.

The training regulations specify that the miners' representatives must receive a copy of the mine's training plan two weeks before it is sent to MSHA. The miners or their representatives have the right to submit written comments on the training plan directly to the MSHA District Manager.

The miners' representatives must also be offered an opportunity to be involved in any revision to the plan and may appeal the MSHA District Manager's decision on the training plan to the Administrator for Coal Mine Safety and Health or the Administrator for Metal and Nonmetal Mine Safety and Health, as appropriate, 4015 Wilson Boulevard, Arlington, Virginia 22203, within 30 days of notification of the District Manager's decision.

Lack of Training - Right to Wages, No Discrimination: Section 104(g)

If a miner is ordered withdrawn from a mine for not having the necessary safety and health training, the miner cannot be fired or otherwise discriminated against and must not suffer a loss of pay because of the withdrawal order. The miner will continue to be paid for as long as it takes the miner to get the required safety and health training and until he or she returns to a regular mining job.

HEALTH PROTECTION

Exposure to Toxic Materials or Harmful Physical Agents: Section 101(a)

In addition to rights contained in the Act itself, MSHA will establish standards and regulations in the future which may give miners other rights. For example, the Act states that safety or health standards must be set up dealing with toxic materials such as mine dusts and gases and with other harmful factors, called physical agents, which include noise, heat and radiation. These standards will require, where appropriate, that medical examinations be made available to miners who might have been exposed to these hazards. The operator will have to provide the examination free of charge to the miner.

Toxic Substances and Hazardous Physical Agents and Equipment Studies: Section 501(a)(11)

Representatives of miners may request MSHA or the Department of Health and Human Services to study and conduct research, experiments, and demonstrations to determine whether any substance normally found in a mine is toxic in the concentrations usually found, or whether any physical agents or equipment found or used in a mine may have hazardous effects.

The request must give the reasons why the study, research, experiment or demonstration is needed. The result of any study, research, experiment or demonstration will be given to both the operator and the miners as soon as possible.

ACCESS TO INFORMATION General: Section 103(c) and (h)

Miners or their representatives can look at or get copies from MSHA or the Secretary of Health and Human Services of most records, information, reports, findings, citations, notices, orders, and decisions that the Act calls for. Records of each miner's exposure to potentially toxic materials and harmful physical agents are available to the miner or former miner from the operator.

Posting Documents on Mine Bulletin Board: Section 109

Any order, citation, notice or decision required by this act to be given to an operator shall be delivered to the mine office and a copy must be immediately posted on the mine bulletin board by the operator or his/her agent.

In addition, MSHA shall immediately mail, or otherwise deliver, a copy of the order, citation, notice or decision to the representatives of the miners.

LEGAL RESPONSIBILITIES OF MINERS

Smoking - Prohibited: Section 110(g)

Miners who violate safety standards by smoking or by carrying smoking materials, matches, or lighters into underground coal mines, gassy underground metal or nonmetal mines, or areas of mines where smoking is prohibited may have to pay a fine of up to $250 for each violation.

Smoking is forbidden in areas of uranium mines where radon daughter exposure measurements are required to be taken. Smoking is also forbidden within 25 feet of where explosives or detonators are stored in noncoal mines.

False Statements and Representation: Section 110(f)

The Act states that any person, including a miner, who knowingly makes a false statement either orally or in writing or who makes a false certification in an application, record, report, plan, training certificate, or any other document required to be kept filed with MSHA shall be subject to a fine of up to $10,000 or imprisoned for up to five years or both.

CONCLUSION

The Act provides for protection of miners' safety and health by giving the mine operators the main responsibility for preventing unsafe and unhealthful conditions in their mines. However, it was the intention of Congress in passing this law, and MSHA in implementing it, to involve the miners in mine safety and health much more than ever before. To ensure that miners are involved, the Act specifies many rights of miners which have been discussed in this booklet. For additional mine safety and health information, contact the person in charge of safety and health at your mine or the nearest MSHA office.

We urge you to use these rights and to accept the responsibilities of miners. A mine's safety and health program is only as effective as the hazard awareness it instills in everyone. Remember, it is your life and health that MSHA is trying to protect. Get involved. Help us and help yourself.